

**NOLD LAW**

**Melissa C. Nold, Esq. SBN 301378**

Russo Building  
521 Georgia Street  
Vallejo, California 94590  
Telephone: (707)644-4004  
melissa@noldlaw.com

**ADANTE POINTER, ESQ., SBN 236229**

**PATRICK BUELNA, ESQ., SBN 317043**

POINTER & BUELNA, LLP  
LAWYERS FOR THE PEOPLE

Wells Fargo Center  
1901 Harrison St., Suite 1140,  
Oakland, CA 94612  
Tel: 510-929-5400  
Email: APointer@LawyersFTP.com  
Email: PBuelna@LawyersFTP.com

Attorneys for Plaintiffs

MARCIE ISOM FITZSIMMONS (SBN: 226906)

JOY JAEGER EHLERS (SBN: 232637)

GORDON REES SCULLY MANSUKHANI, LLP

275 Battery Street, Suite 2000

San Francisco, CA 94111

Telephone: (415) 986-5900

Facsimile: (415) 986-8054

[misom@grsm.com](mailto:misom@grsm.com)

[jeblers@grsm.com](mailto:jeblers@grsm.com)

Attorneys for Defendants

JOHN MUIR HEALTH AND DAMAN MOTT

**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**

CODY BACA, et al,

Plaintiffs,

v.

JOHN MUIR HEALTH, et al.,

Defendants.

CASE NO.: 4:21-cv-04898-SBA

**STIPULATION TO SHORTEN TIME AND  
STIPULATION FOR 14-DAY EXTENSION  
OF FACT DISCOVERY AND ORDER**

HON. SAUNDRA BROWN ARMSTRONG

Date: April 13, 2022  
Time: 2 p.m.  
Ctrm: Zoom

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**I. BRIEF PROCEDURAL HISTORY**

On October 25, 2019, Plaintiffs filed their Complaint in Contra Costa County Superior Court.

On June 18, 2021, Plaintiffs Amended their Contra Costa Superior Court Complaint, adding federal civil rights claims.

On June 29, 2021, Defendants removed the matter to the Northern District.

On September 29, 2021, the court issued a scheduling order in this matter, setting the close of fact discovery on March 31, 2022.

Defendants served their initial disclosures on September 21, 2021. Plaintiffs served their initial disclosures on September 24, 2021.

Defendants completed the deposition of Plaintiff Cody Baca on December 14, 2020 and January 19, 2022. Defendants completed the deposition of Plaintiff Leticia Baca on December 4, 2020 and February 2, 2022.

Plaintiffs took three witness depositions in January and February 2022.

Defendant Mott was scheduled for deposition on January 21, 2022 which had to be rescheduled due to jury duty.

On January 25, 2022, Walnut Creek Police Sergeant Watson was scheduled for deposition in this matter but was unable to appear. His deposition has been rescheduled for March 31, 2022 at 10 a.m.

Plaintiffs are scheduled to depose Defendant John Muir Health's Person Most Knowledgeable regarding patient complaints on March 31, 2022 at 2 p.m.

In February 2022, lead counsel Melissa Nold's father passed away, causing an unexpected change in her availability for February and March, as she diligently works to secure an expansive estate and a voluminous amount of property.

1 On February 25, 2022, Defendant Daman Mott was deposed. Plaintiffs cancelled Defendant  
2 Mott's previously scheduled depositions on November 11, 2021 and December 17, 2021.

3 On February 28, 2022, Plaintiffs initially met and conferred with Defendants and sought a 60-  
4 day extension of Fact Discovery to complete necessary written discovery and depositions. Defendants  
5 agreed to a 14-day extension provided Plaintiffs agreed to extend the deadline for Defendants to file  
6 their summary judgment motion by 14 days.  
7

8 On March 1, 2022, before the March 31 fact discovery cutoff date, Defendants propounded  
9 additional written discovery including supplemental requests for discovery pursuant to FRCP 26(e).

10 On March 10, 2022, after additional meeting and conferring, Defendants confirmed their  
11 unwillingness to exceed a 14-day extension of Fact Discovery. Defendants' position is that Plaintiffs  
12 have had plenty of time to conduct discovery before the cutoff date and could have taken Defendant  
13 Mott's deposition months ago, but cancelled it multiple times.  
14

15 On March 9, 2022, a witness deposition was scheduled, but had to be rescheduled due to a  
16 power outage in Plaintiff's office. Although the witness was available for deposition for the  
17 remainder of the day on March 9, 2022 as well as on March 14, 2022, Plaintiffs' counsel was  
18 unavailable to proceed with the deposition on either date. The witness is not available later in March  
19 due to a prescheduled vacation.  
20

21 Plaintiffs anticipate needing two to three additional depositions and additional written  
22 discovery.  
23

24 Defendants agreed to extend the close of Fact Discovery until April 14, 2022, (14-days),  
25 provided Plaintiffs agreed to a two-week extension for Defendants to file their summary judgment  
26 motion and obtained a Court Order to enlarge time pursuant to Civil L.R. 6-1(b) , which will permit  
27 Plaintiffs' Motion to Reset Pre-Trial Deadlines to be heard before the close of Fact Discovery.  
28

## II. LEGAL BASIS TO SHORTEN TIME

Northern District Local Rules 6-3 permits a party to move to shorten time to hearing a motion. (CAND Local Rule 6-3). The party must:

**(1) Sets forth with particularity, the reasons for the requested enlargement or shortening of time;**

The current Fact Discovery closing date is set for March 31, 2022. Plaintiffs have requested Defendants Stipulate to extend the current Fact Discovery Period by 60-days. Defendants declined, but have agreed to Stipulate to extend Fact Discovery until April 14, 2022, which will allow Plaintiffs' Motion to Reset the Pre-trial Deadlines to be heard before the Proposed Stipulated Close of Fact Discovery. The parties have proposed April 13, 2022 for their shortened hearing date.

**(2) Describes the efforts the party has made to obtain a stipulation to the time change;**

Plaintiffs sought Defendants agreement to shorten time to hear their Motion. Defendants agreed to Stipulate to shorten time so this matter can be heard on April 13, 2022. Defendants' counsel is not available the week of March 21, 2022.

**(3) Identifies the substantial harm or prejudice that would occur if the Court did not change the time;**

If the Court does not shorten the time the parties will be unable to resolve their disputed Extension of Fact Discovery prior to the current proposed Stipulated Close of Fact Discovery on April 14, 2022. Without the shortening of time, Plaintiffs Motion would not be heard until May 11, 2022.

**(4) If the motion is to shorten time for the Court to hear a motion:**

**(i) Describes the moving party's compliance with Civil L.R. 37-1(a), where applicable.**

The parties agreed to Stipulate to shorten time.

1           **(ii) Describes the nature of the underlying dispute that would be addressed in the**  
2 **motion and briefly summarizes the position each party had taken.**

3           The underlying Motion seeks to extend the pre-trial deadlines in this matter by 60-days, while  
4 Defendants are only amenable to a 14-day extension.

5           **(5) Discloses all previous time modifications in the case, whether by stipulation or Court**  
6 **order;**

7           The court has not previously modified its scheduling order in this matter.

8           **(6) Describes the effect the requested time modification would have on the schedule for**  
9 **the case.**

10           The requested time modification would permit the parties to resolve their dispute prior to the  
11 proposed Stipulated Close of Fact Discovery.  
12

13  
14           **III. STIPULATION TO EXTEND FACT DISCOVERY**

15           The parties Stipulate to a 14-day extension of Fact Discovery, which will permit Plaintiffs'  
16 Motion to Extend Pre-trial Deadlines by 60-days to be completed prior to the close of Fact Discovery.  
17

18           **IV. CONCLUSION**

19           For the aforementioned reasons, the parties respectfully request the Court to GRANT their  
20 Motion to Shorten Time and Proposed Stipulation to Extend Fact Discovery by 14-days.  
21

22           Date: March 18, 2022

23           Respectfully submitted,

24           **POINTER & BUELNA, LLP**

25  
26           /s/ Patrick Buelna  
27           PATRICK BUELNA  
28           COUNSEL FOR PLAINTIFFS

1 Dated: March 18, 2022

GORDON REES SCULLY MANSUKHANI, LLP

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4 By: /s/Marcie Fitzsimmons (Auth 3-18-22)

5 Marcie Isom Fitzsimmons

6 Joy Jaeger Ehlers

7 Attorneys for Defendants


JOHN MUIR HEALTH and DAMAN MOTT

8  
9 **ORDER**

10 The above STIPULATION TO SHORTEN TIME AND STIPULATION FOR 14-DAY  
11 EXTENSION OF FACT DISCOVERY is DENIED AS MOOT IN LIGHT OF DOCKET NO.23.

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15 **IT IS SO ORDERED.**

16  
17 DATED: April 18, 2022

18  RS  
19 Richard Seeborg for Sandra B. Armstrong  
20 United States Senior District Court Judge  
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